

Introduced by Senator RunnerFebruary 27, 2009

An act to amend Sections 70, 70.2, 70.4, 70.8, 71.2, 71.4, 71.8, 72, 72.2, 76, 76.3, 76.5, 76.6, 131, 133, 264, 300, 301, 302, 304, 305, 306, 307, 308, 505.5, 571, 652, 654.5, 658.3, 668.1, 738, and 780 of, to add Sections 71.45, 71.46, 309, and 310 to, to repeal Section 660.2 of, and to repeal Chapter 2.5 (commencing with Section 110) of Division 1.5 of, the Harbors and Navigation Code, relating to boating and waterways.

LEGISLATIVE COUNSEL'S DIGEST

SB 717, as introduced, Runner. Boating and waterways: Department of Boating and Waterways.

Under existing law, the Department of Boating and Waterways regulates, among other things, harbors, ports, boating, and waterways pursuant to the Harbors and Navigation Code.

Existing law authorizes the department to acquire, construct, develop, and improve small craft harbors, subject to provisions that require the department to transfer these facilities to a county, city, or district, as specified, that requests it and enters into an agreement to repay the state for acquiring and developing the harbor and that authorize the deferral of a local governing body's repayment of the costs to the state for these activities.

This bill would authorize, rather than require, a small craft harbor acquired or developed by the department to be transferred to a county, city, or district under specified circumstances. The bill would eliminate certain authority of the department to defer repayments required of a local governing body or reimburse deficiencies of revenues to allow a facility to meet operation and maintenance costs of a project.

Existing law authorizes the department, subject to approval of the Legislature as provided, to make loans to cities, counties, or certain districts for the planning, acquisition, construction, improvement, maintenance, or operation of small craft harbors and facilities in connection with the harbors and connecting waterways. The department is required to establish rules and regulations to be followed in making these loans that include certain policies and standards.

This bill would also authorize these loans for the design of the harbors and facilities. The bill would require additional policies and standards for Leadership in Energy and Environmental Design (LEED) certification and sustainable renewable energy. This bill would establish an additional loan program under which the department would be authorized to make loans to cities, counties, and districts for specified activities related to the development of small craft harbors, including refinancing an existing loan for those purposes.

Existing law authorizes the department to make loans to private marina owners to develop a recreational marina, which may be used for various activities. Existing law limits a loan to a private marina owner to 75% of the funds annually budgeted for recreational marinas.

This bill would also authorize these loans for acquisition and would delete the limit on the loan amount.

Existing law requires loans under these provisions to include certain minimum terms and conditions, including a minimum annual rate of interest charged by the department of 1% per annum, as provided.

This bill would revise this loan condition to apply to a construction loan and would provide that the annual interest rate charged for an acquisition or refinance loan shall be set by the commission. The bill would establish additional minimum terms and conditions, would authorize the department to restate existing loans, upon written request, and upon approval by the commission, and would authorize the department to allow the assumption of loans upon approval by the department and the commission.

Existing law requires a person 11 years of age or younger to wear a United States Coast Guard approved life vest when aboard a motorboat, sailboat, or vessel that is underway.

This bill would apply this requirement instead to a person under 13 years of age.

Existing law makes it a misdemeanor to moor a vessel or hang on with a vessel to a buoy or beacon.

This bill would except from this prohibition designated mooring buoys.

Existing law requires the department, upon the request of the Director of Fish and Game, to perform various activities regarding efforts to control and eradicate *Caulerpa taxifolia* from the Agua Hedionda Lagoon in San Diego County.

This bill would delete this provision.

Existing law requires a person convicted of certain violations of the Harbors and Navigation Code to complete and pass a boating and safety course approved by the department. It is unlawful to operate a motorized vessel or have the engine of a motorized vessel run idle while an individual is teak surfing, platform dragging, or bodysurfing behind the motorized vessel or while an individual is occupying or holding onto the swim platform, swim deck, swim step, or swim ladder of the vessel.

This bill would impose the boating and safety course requirement on a person who violates this provision.

Existing law provides that a person who violates various provisions of the Harbors and Navigation Code is guilty of a felony, or is punishable by imprisonment in the state prison, for unspecified or specified timeframes.

This bill would provide that a person who violates these provisions is guilty of a felony and would establish the same maximum fine and imprisonment for all of these felony violations, with different penalties for first and 2nd or subsequent convictions.

Existing law also provides that certain violations of the Harbors and Navigation Code are misdemeanors.

This bill would establish the penalty for these misdemeanor violations, with different penalties for first, 2nd, and 3rd or subsequent convictions.

The bill would make technical, nonsubstantive changes to certain provisions of the Harbors and Navigation Code.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 70 of the Harbors and Navigation Code
- 2 is amended to read:
- 3 70. The department may prepare plans for, and acquire,
- 4 construct, develop, and improve, small craft harbors, facilities in
- 5 connection ~~therewith~~ *with the harbors*, and connecting waterways.

1 ~~Any~~ A small craft harbor so acquired or developed ~~shall~~ *may* be
 2 transferred, and its operation relinquished, to a county; *or* city, or
 3 ~~any~~ a district having power to operate a small craft harbor, in which
 4 any part of it is located, upon the request of ~~such~~ *the* city, county,
 5 or district, if ~~such~~ *the* city, county, or district enters into an
 6 agreement with the department for repayment to the state of all
 7 costs incurred by the department in acquiring and developing ~~such~~
 8 *the* small craft harbor, including planning costs. The city, county,
 9 or district shall be required by the department to repay ~~such costs~~
 10 ~~by means of deferred payments, such those costs.~~ *The* payments
 11 ~~to shall~~ be made in ~~such~~ *the* amounts and at ~~such~~ *the* times ~~as may~~
 12 ~~be that are~~ provided by the agreement.

13 SEC. 2. Section 70.2 of the Harbors and Navigation Code is
 14 amended to read:

15 70.2. (a) The department may prepare or contract for the
 16 preparation of plans for, acquire or contract for the acquisition of,
 17 construct or contract for the construction of, develop and improve,
 18 or contract for the development and improvement of; any portion
 19 of coastal small craft harbors ~~which that are normally are~~
 20 nonrevenue producing, such as jetties, breakwaters, dredging,
 21 seawalls, piers, and communication centers.

22 ~~This~~

23 (b) *This* program may be conducted in cooperation with the
 24 federal government for harbor development along the coastline of
 25 California. In ~~such those~~ cooperative projects, the department may
 26 assume the role of “local sponsor” as that term is used in
 27 agreements with the federal government with regard to those
 28 projects referred to in this section, ~~providing that if~~ before the
 29 department ~~may assume~~ *assumes* the role of “local sponsor” it
 30 ~~shall determine~~ *determines* to its satisfaction that the local entity
 31 ~~which that~~ would otherwise be designated as local sponsor cannot
 32 fulfill the obligations commensurate with that designation.

33 ~~If~~

34 (c) *If* the nonrevenue producing facilities are to be a portion of
 35 an existing harbor, the department, prior to construction ~~thereof~~
 36 ~~of those facilities,~~ shall enter into an agreement with the local
 37 governing body of the harbor ~~which that~~ provides that revenues
 38 from harbor operations and harbor district taxes, ~~if any,~~ shall serve
 39 as security for repayment of the state contribution to the cost of
 40 construction and the local governing body shall assume

1 ~~responsibility~~ *responsibility* for the operation and maintenance of
 2 the facilities constructed under the agreement. ~~If, however,~~
 3 ~~unencumbered income to the harbor is insufficient to repay~~
 4 ~~construction costs, such repayment shall be deferred until the~~
 5 ~~department determines that such income is sufficient to initiate~~
 6 ~~repayment thereof.~~

7 If

8 (d) *If* nonrevenue producing facilities are to be constructed at
 9 a location where no harbor operation is being conducted by ~~any a~~
 10 governmental entity, the department may initiate construction of
 11 ~~such~~ *the* facilities after securing an agreement with the appropriate
 12 local jurisdiction that the local entity shall assume the responsibility
 13 of operation and maintenance ~~thereof and of the facilities, as well~~
 14 ~~as~~ repayment of all *related* costs of the department ~~related thereto.~~
 15 ~~Repayment of costs shall commence when it has been determined~~
 16 ~~by the department that revenues attributable to such harbor~~
 17 ~~operations are sufficient for the local entity to assume such~~
 18 ~~responsibilities, as agreed to in writing.~~

19 ~~Prior to the dates so determined by the department, the~~
 20 ~~department may reimburse the local governing body annually for~~
 21 ~~any deficiency of revenues to the harbor as determined by the~~
 22 ~~division to meet the costs of operation and maintenance of the~~
 23 ~~project.~~

24 Harbor

25 (e) *Harbor* facilities provided by the department pursuant to
 26 this section shall be defined as nonrevenue producing features for
 27 the purpose of the term of repayment under subdivision ~~(g)~~ (a) of
 28 Section 71.8.

29 SEC. 3. Section 70.4 of the Harbors and Navigation Code is
 30 amended to read:

31 70.4. No city, county, or district that has received, or is
 32 receiving, money under this division for the *design, planning,*
 33 construction, or improvement of a small craft harbor of refuge
 34 shall exclude, consistent with the intent of Section 40, the use of
 35 that harbor by a commercial boat, or any vessel in need of a safe
 36 harbor for refuge purposes. Each vessel entering and using a harbor
 37 of safe refuge pursuant to this section shall pay the published fees
 38 for services rendered while in the harbor and shall comply with
 39 all other applicable local, state, and federal laws while in the harbor
 40 and while using any facilities in the harbor.

1 SEC. 4. Section 70.8 of the Harbors and Navigation Code is
2 amended to read:

3 70.8. The department may contract with ~~any~~ a federal agency,
4 ~~any~~ state agency, or ~~a~~ city, county, or district, in the *design*,
5 planning, construction, development, and improvement of small
6 craft harbors pursuant to this chapter, or for the maintenance and
7 operation of any small craft harbors under the jurisdiction of the
8 department.

9 SEC. 5. Section 71.2 of the Harbors and Navigation Code is
10 amended to read:

11 71.2. (a) The department shall protect small craft harbors under
12 its jurisdiction from damage and preserve the peace ~~therein~~ *in those*
13 *harbors*. The director and the employees of the department that
14 the director designates have the authority and powers conferred
15 by law upon peace officers listed in Section 830.33 of the Penal
16 Code for those harbors. The department may adopt rules and
17 regulations that may be necessary for the purposes of this section.
18 A violation of those rules or regulations is a misdemeanor.

19 (b) *A person found guilty of a misdemeanor violation of this*
20 *section, upon first conviction shall be subject to a fine not to exceed*
21 *one thousand dollars (\$1,000) or imprisonment in the county jail*
22 *not to exceed 30 days, or both that fine and imprisonment. Upon*
23 *a second conviction, the punishment shall be a fine of not to exceed*
24 *five thousand dollars (\$5,000) or imprisonment in the county jail*
25 *not to exceed 90 days, or both that fine and imprisonment. Upon*
26 *a third or subsequent conviction, the punishment shall be a fine*
27 *of not to exceed ten thousand dollars (\$10,000) or imprisonment*
28 *in the county jail not to exceed one year, or both that fine and*
29 *imprisonment.*

30 SEC. 6. Section 71.4 of the Harbors and Navigation Code is
31 amended to read:

32 71.4. (a) The department, subject to the approval of the
33 Legislature in accordance with Section 85.2, may make loans to
34 *qualified* cities, counties, or districts having power to acquire,
35 construct, and operate small craft harbors, for the *design*, planning,
36 acquisition, construction, improvement, maintenance, or operation
37 of small craft harbors and facilities in connection ~~therewith~~ *with*
38 *the harbors*, and connecting waterways, if the department finds
39 that the project is feasible.

1 (b) The department shall establish, by rules and regulations,
2 policies and standards to be followed in making loans pursuant to
3 this section so as to further the proper development and
4 maintenance of a statewide system of small craft harbors and
5 connecting waterways. To the greatest extent possible, the
6 department shall adhere to customary commercial practices to
7 ensure that loans made pursuant to this section are adequately
8 secured and that the loans are repaid consistent with the terms of
9 the loan agreement. Any rules and regulations shall include policies
10 and standards for restrooms, vessel pumpout facilities, oil recycling
11 facilities, *Leadership in Energy and Environmental Design (LEED)*
12 *certification, sustainable renewable energy*, and receptacles for
13 the purpose of separating, reusing, or recycling all solid waste
14 materials.

15 (c) The department shall develop weighing and ranking criteria
16 to qualify and prioritize the public loans.

17 (d) ~~Any~~ A loan under this section shall be repaid as provided in
18 Section 70.

19 (e) Rates to be charged for the use of the boating facilities shall
20 be established by the city, county, or district, subject to the approval
21 of the department, in every loan contract. The department shall
22 concern itself with the rates charged only as prescribed in Section
23 71.8. The rates set shall be based on a monthly berthing charge,
24 and the department shall monitor these rates to ensure that the
25 berthing charges are sufficient to ensure timely and complete
26 repayment of the loan.

27 (f) The department shall submit any project for which it
28 recommends any loan be made to the Governor for inclusion in
29 the Budget Bill.

30 ~~(g) No loans shall be made to cities, counties, or districts~~
31 ~~pursuant to this article from funds appropriated in the Budget Act~~
32 ~~of 1999 for the purposes of this section until the practices and~~
33 ~~criteria described in subdivisions (b) and (c) have been reviewed~~
34 ~~and approved by the Department of Finance. Any subsequent~~
35 ~~changes to those practices and criteria shall also be approved by~~
36 ~~the Department of Finance.~~

37 (g) *The department may restate an existing loan under this*
38 *article, upon written request, and upon approval by the*
39 *commission.*

1 SEC. 7. Section 71.45 is added to the Harbors and Navigation
2 Code, to read:

3 71.45. (a) The department may make a loan to a qualified city,
4 county, or district for acquisition, planning, design, construction,
5 and other similar expenses, to develop a small craft harbor. Loan
6 funds from the department may be utilized for berthing facilities,
7 dredging, parking, public access facilities, restrooms, vessel
8 pumpout facilities, oil recycling facilities, utilities, landscaping,
9 receptacles for the purpose of separating, reusing, or recycling all
10 solid waste materials, Leadership in Energy and Environmental
11 Design (LEED) certification, sustainable renewable energy, and
12 other incidental boating-related amenities.

13 (b) The department shall not make a loan to a city, county, or
14 district that restricts access or bars the public other than what is
15 consistent with general commercial business practices.

16 (c) A city, county, or district that purchases facilities previously
17 developed with a department loan is eligible to apply for a new
18 construction loan from the department.

19 (d) (1) The department may also make a loan to a city, county,
20 or district for the purpose of refinancing an existing loan, subject
21 to the following conditions:

22 (A) Not more than 70 percent of the proceeds from the loan
23 shall be used to refinance an existing loan.

24 (B) Not less than 30 percent of the loan proceeds shall be used
25 for construction activity authorized under this section.

26 (C) The loan applicant shall provide documentation to the
27 department proving to the satisfaction of the department that the
28 existing loan prohibits the addition of a loan in second position.

29 (D) The loan applicant shall meet all other requirements under
30 law for loan qualification, and any other applicable term or
31 condition of law.

32 (2) This subdivision does not prohibit a city, county, or district
33 from applying for a loan under subdivision (a).

34 SEC. 8. Section 71.46 is added to the Harbors and Navigation
35 Code, to read:

36 71.46. Loans made under this article shall include, but are not
37 limited to, the following terms and conditions:

38 (a) (1) The minimum annual rate of interest charged by the
39 department for a construction loan shall be a rate equal to 1 percent
40 per annum plus the prevailing rate of interest existing in the

1 marketplace for lending institutions' most creditworthy borrowers.
2 For purposes of this article, the prevailing rate of interest existing
3 in the marketplace for lending institutions' most creditworthy
4 borrowers means the prime or base rate of interest.

5 (2) The annual interest rate charged for an acquisition or
6 refinance loan shall be set by the commission.

7 (b) The department shall require collateral in a minimum amount
8 of 110 percent of the loan.

9 (c) The repayment period of a loan shall not exceed 20 years,
10 or be longer than the length of the borrower's leasehold estate,
11 including renewal options, if the loan is based upon a leasehold
12 estate of the borrower.

13 (d) All loans shall amortize the principal over the term of the
14 loan. However, a loan shall become due and payable in full if the
15 borrower sells or otherwise transfers the small craft harbor
16 developed with department funds.

17 (e) The department's loans shall not be subordinated to any
18 future loans obtained by a city, county, or district, except in those
19 cases involving loans acquired for refinancing previous senior
20 loans.

21 (f) The department may allow the assumption of loans from
22 the original borrower by future parties subject to completion of
23 the application process and upon approval by the department and
24 the commission.

25 (g) The department may, upon written request, and upon the
26 approval of the commission, restate an existing loan.

27 SEC. 9. Section 71.8 of the Harbors and Navigation Code is
28 amended to read:

29 71.8. (a) ~~Any~~A contract or agreement for a transfer pursuant
30 to Section 70 or a loan pursuant to Section 71.4, for which gross
31 revenues of a small craft harbor are made the security for
32 repayment shall include, but is not limited to, provisions requiring
33 the governing body of the city, county, or district to perform all
34 the following:

35 (1) Punctually pay all installments of principal and interest on
36 money owed to the state.

37 (2) Continuously operate in an efficient and economical manner
38 all small craft harbor facilities acquired, constructed, improved,
39 or completed in full or in part as a result of transfers or loans by
40 the state.

1 (3) Make all repairs, renewals, and replacements necessary to
2 the efficient operation of the small craft harbor facilities and to
3 keep the facilities in good repair at all times.

4 (4) Preserve and protect the security interest of the state in all
5 respects by procuring insurance on the facilities in an amount and
6 of the type approved by the department.

7 (5) Subject to subdivision (c), periodically fix, prescribe, and
8 collect fees, rentals, or other charges for services and facilities of
9 the small craft harbor facilities sufficient to produce gross revenues
10 adequate for payment of the following amounts in the order set
11 forth:

12 (A) All installments of principal and interest on money owed
13 the state as they come due.

14 (B) All expenses of operation, maintenance, and repair of the
15 small craft harbor facilities.

16 (C) Any additional sums as may be required by the department
17 for any sinking fund, reserve fund, or other special fund established
18 for the further security of the loan or transfer or as a depreciation
19 or other charge in connection with the small craft harbor facilities.

20 (6) Repay loans with regard to the revenue-producing features,
21 as determined by the department, constructed under the loan over
22 a period not to exceed 30 years.

23 (7) Repay loans with regard to the non-revenue-producing
24 features, as determined by the department, constructed under the
25 loan over a period not to exceed 50 years.

26 (b) The department may require the contract or agreement to
27 include a requirement that installments of principal and interest
28 on money owed the state shall be paid from gross revenues prior
29 to any other expenditures from those revenues. ~~However, if the~~
30 ~~department is satisfied that the city, county, or district has sufficient~~
31 ~~financial resources to fully repay the loan without the necessity of~~
32 ~~priority payment, that requirement may be waived, in which case~~
33 ~~the contract or agreement shall provide that installments of~~
34 ~~principal and interest on money owed the state may be repaid under~~
35 ~~the terms and conditions mutually agreed upon and specifically~~
36 ~~set forth in the contract or agreement.~~ No loan of funds shall be
37 made to ~~any~~ a city, county, or district unless the loan is approved
38 by the department as conforming to the policies established by the
39 department. ~~The contracts and agreements~~ *A contract or agreement*

1 shall not be effective until approved by the Department of General
2 Services for legality, form, and completeness.

3 (c) The fees for the use of launching ramps in a small craft
4 harbor shall not exceed the sum of the following:

5 (1) The costs of operation and maintenance of the launching
6 ramp and related harbor facilities, including, but not limited to,
7 access to the ramp from the shore and the ocean.

8 (2) The prorated capital costs of that portion of the facility which
9 is determined by the governing body of the small craft harbor or
10 boating facility to be necessary to pay amounts specified in
11 paragraph (5) of subdivision (a).

12 (d) If the city, county, or district defaults on the payment of
13 money owed the state, or otherwise fails to perform in accordance
14 with the terms and conditions of the contract or agreement, the
15 state shall forthwith recover the defaulted loan and the department
16 may assume the operation and maintenance of the harbor or facility
17 or enter into one or more contracts for its operation and
18 maintenance.

19 SEC. 10. Section 72 of the Harbors and Navigation Code is
20 amended to read:

21 72. (a) If the legislative body of a city, county, or district has
22 acquired, constructed or improved small craft harbor facilities
23 pursuant to an agreement or contract for a transfer pursuant to
24 Section 70, or a loan pursuant to Section 71.4, ~~such~~ the facilities
25 may not be leased in whole or in part to a private concessionaire
26 or lessee until ~~such~~ the legislative body has published a notice
27 pursuant to Section 6066 of the Government Code inviting bids
28 and has otherwise complied with this section. Prior to publication
29 of the notice, the legislative body shall obtain the approval of the
30 department to the proposed leasing of the harbor facility and to
31 the terms and conditions of the proposed lease. The notice shall
32 distinctly and specifically describe the harbor facilities ~~which~~ that
33 are to be leased and set forth the period of the time for which the
34 facilities are to be leased, and the minimum rental to be paid under
35 the lease. The notice shall recite that the lease will reserve to the
36 legislative body the power to fix and determine the rates to be
37 charged by the lessee for the use by the public of ~~such~~ the facilities.
38 The notice also shall ~~recite~~ *prominently display the statement* that
39 award of the lease by the legislative body is subject to final

1 approval by the department, and fix a time and place for the
2 opening of bids by the legislative body.

3 ~~At~~

4 (b) ~~At~~ the time and place fixed in the notice, the legislative body
5 shall meet and consider all bids ~~which~~ *that* have been submitted.
6 The lease shall be awarded to the highest responsible bidder, but
7 the award shall become final only after the award by the legislative
8 body has been approved by the department.

9 SEC. 11. Section 72.2 of the Harbors and Navigation Code is
10 amended to read:

11 72.2. (a) Notwithstanding other provisions of this chapter, if
12 the legislative body of a city, county, or district has acquired,
13 constructed or improved small craft harbor facilities pursuant to
14 an agreement or contract for a transfer pursuant to Section 70; or
15 a loan pursuant to Section 71.4, ~~where~~ *under circumstances in*
16 *which* the proposed lease area is land or water area and ~~where~~ the
17 terms of the proposed lease call for the lessee to install or construct
18 all improvements, ~~such~~ *the* land or water area may be leased by
19 the legislative body without public bidding, but only after a public
20 hearing, public notice of which shall be given by publication for
21 not less than once a week for two weeks in a newspaper of general
22 circulation published in the county in which the land lies.

23 ~~Prior~~

24 (b) ~~Prior~~ to publication of the public notice the legislative body
25 shall obtain the *written* approval of the department to the proposed
26 leasing of the harbor facility and the provisions of the proposed
27 public notice. The public notice shall describe the land or water
28 area ~~which~~ *that* is to be leased, describe in general terms the nature
29 of the development desired by the legislative body, and set forth
30 the period of time for which the land or water area is to be leased,
31 and the minimum rental to be paid under the lease. The public
32 notice shall recite that the lease will reserve to the legislative body
33 the power to fix and determine the rates to be charged by the lessee
34 for the use by the public of facilities developed by the lessee. The
35 public notice also shall ~~recite~~ *contain a prominent statement* that
36 award of the lease by the legislative body is subject to final
37 approval by the department, and fix a time and place for the public
38 hearing by the legislative body. The public notice shall invite
39 proposals for leasing from any and all interested parties.

40 ~~At~~

1 (c) At the time and place fixed in the public notice of hearing,
2 the legislative body shall meet and consider the lease proposal
3 submitted. The award of the lease shall become final only after
4 the award by the legislative body has been approved by the
5 department.

6 SEC. 12. Section 76 of the Harbors and Navigation Code is
7 amended to read:

8 76. It is the intent of the Legislature that Harbors and Watercraft
9 Revolving Fund moneys be used to implement the intent of Section
10 71.5 by providing loans directly to private recreational marina
11 owners for the *design, acquisition*, development, expansion, and
12 improvement of boating facilities. It is the further intent of the
13 Legislature that borrowers receiving loans not charge unreasonably
14 high boat berthing fees at their harbor facilities, but that those
15 borrowers be entitled to charge rates that provide for servicing of
16 borrowed indebtedness obtained to develop those facilities, provide
17 for other expenses incurred in operating the facilities, establish
18 reasonable reserves for repairs, maintenance, and replacement of
19 those facilities, and provide a reasonable return on the borrower's
20 invested capital.

21 SEC. 13. Section 76.3 of the Harbors and Navigation Code is
22 amended to read:

23 76.3. (a) The department may make loans to private marina
24 owners to develop a recreational marina. Loan funds from the
25 department may be utilized for both of the following:

26 (1) Construction costs for berthing facilities, dredging, parking,
27 public access facilities, restrooms, vessel pumpout facilities, oil
28 recycling facilities, utilities, landscaping, receptacles for the
29 purpose of separating, reusing, or recycling all solid waste
30 materials, and other incidental boating-related amenities.

31 (2) ~~Collateral Acquisition~~, *collateral* appraisals, permit fees,
32 planning, engineering, and design expenses directly related to the
33 items specified in paragraph (1).

34 ~~(b) No loan made by the department to a private marina owner~~
35 ~~shall exceed 75 percent of the funds annually budgeted for purposes~~
36 ~~of this article.~~

37 (e)

38 (b) The department shall not make a loan to a recreational
39 marina that restricts access or bars the public other than that which
40 is consistent with general commercial business practices.

1 ~~(d)~~

2 (c) Any private marina owner who purchases facilities
3 previously developed with a department loan is eligible to apply
4 for a new construction loan from the department.

5 ~~(e)~~

6 (d) (1) The department may also make a loan to a recreational
7 marina for the purpose of refinancing an existing loan, subject to
8 the following conditions:

9 (A) Not more than 70 percent of the proceeds from the loan
10 shall be used to refinance an existing loan.

11 (B) Not less than 30 percent of the loan proceeds shall be used
12 for construction activity authorized under this section.

13 (C) The loan applicant shall provide documentation to the
14 department proving to the satisfaction of the department that the
15 existing loan prohibits the addition of a loan in second position.

16 (D) The loan applicant shall meet all other requirements under
17 law for loan qualification and any other applicable term or
18 condition of law.

19 (2) This subdivision does not prohibit a person from applying
20 for a loan under subdivision (a).

21 SEC. 14. Section 76.5 of the Harbors and Navigation Code is
22 amended to read:

23 76.5. In processing applications under this article, the
24 department shall give priority to applications from *qualified* private
25 marina owners who have not received previous loans from the
26 department. If the department finds a proposed loan project is
27 feasible, the loan request shall be submitted to the commission for
28 its advice and consent.

29 SEC. 15. Section 76.6 of the Harbors and Navigation Code is
30 amended to read:

31 76.6. Loans made under this article shall include, but are not
32 limited to, the following terms and conditions:

33 (a) (1) The *minimum* annual rate of interest charged by the
34 department *for a construction loan* shall be a rate equal to 1 percent
35 per annum plus the prevailing rate of interest existing in the
36 marketplace for lending institutions' most creditworthy borrowers.
37 For purposes of this article, the prevailing rate of interest existing
38 in the marketplace for lending institutions' most creditworthy
39 borrowers means the prime or base rate of interest.

1 (2) *The annual interest rate charged for an acquisition or*
2 *refinance loan shall be set by the commission.*

3 (b) The department shall require collateral in ~~the~~ *a minimum*
4 amount of 110 percent of the loan.

5 (c) The repayment period of a loan shall not exceed 20 years,
6 or be longer than the length of the borrower's leasehold estate,
7 including renewal options, if the loan is based upon a leasehold
8 estate of the borrower.

9 (d) All loans shall amortize the principal over the term of the
10 loan. However, a loan shall become due and payable in full if the
11 borrower sells or otherwise transfers the recreational marina
12 developed with departmental funds, unless the transfer is, by reason
13 of the death of the borrower, to the borrower's heirs, ~~or the transfer~~
14 ~~is to another business entity controlled by the borrower in a~~
15 ~~transaction that does not result in a material change in control or~~
16 ~~ownership of the recreational marina.~~

17 (e) The department's loans shall not be subordinated to any
18 future loans obtained by a private marina owner, except in those
19 cases involving loans acquired for refinancing previous senior
20 loans.

21 (f) *The department may allow assumption of loans from the*
22 *original borrower by future parties, subject to completion of the*
23 *application process and upon approval by the department and the*
24 *commission.*

25 (g) *The department may, upon written request, and upon the*
26 *approval of the commission, restate an existing loan.*

27 SEC. 16. Chapter 2.5 (commencing with Section 110) of
28 Division 1.5 of the Harbors and Navigation Code is repealed.

29 SEC. 17. Section 131 of the Harbors and Navigation Code is
30 amended to read:

31 131. ~~Every~~ *(a) A person who unlawfully obstructs the*
32 *navigation of any navigable waters, is guilty of a misdemeanor.*

33 *(b) A every person found guilty of a misdemeanor violation of*
34 *this section, upon first conviction shall be subject to a fine not to*
35 *exceed one thousand dollars (\$1,000) or imprisonment in the*
36 *county jail not to exceed 30 days, or both that fine and*
37 *imprisonment. Upon a second conviction, the punishment shall be*
38 *a fine not to exceed five thousand dollars (\$5,000) or imprisonment*
39 *in the county jail not to exceed 90 days, or both that fine and*
40 *imprisonment. Upon a third or subsequent conviction, the*

1 *punishment shall be a fine not to exceed ten thousand dollars*
 2 *(\$10,000) or imprisonment in the county jail not to exceed one*
 3 *year, or both that fine and imprisonment.*

4 SEC. 18. Section 133 of the Harbors and Navigation Code is
 5 amended to read:

6 133. (a) Except in case of emergency imperiling life or
 7 property, or unavoidable accident, collision, or stranding, or as
 8 otherwise permitted by law, it is unlawful and constitutes a
 9 misdemeanor for ~~any~~ a person to discharge, or suffer the discharge
 10 of, oil by any methods, means, or manner, into or upon the
 11 navigable waters of the ~~State~~ *state* from any vessel using oil as
 12 fuel for the generation of propulsion power, or any vessel carrying
 13 or having oil in excess of that necessary for its lubricating
 14 requirements, and ~~such~~ as may be required under the laws and
 15 prescribed rules and regulations of the United States and this ~~State~~
 16 *state*.

17 ~~As~~

18 (b) *As* used in this section, the term “oil” means oil of any kind
 19 or in any form, including fuel oil, oil sludge, and oil refuse, and
 20 the term, “navigable waters of the ~~State~~ *state*,” means all portions
 21 of the sea within the territorial jurisdiction of the ~~State~~ *state*, and
 22 all inland waters navigable in fact in which the tide ebbs and flows.

23 (c) *A person found guilty of a misdemeanor violation of this*
 24 *section, upon first conviction shall be subject to a fine not to exceed*
 25 *one thousand dollars (\$1,000) or imprisonment in the county jail*
 26 *not to exceed 30 days, or both that fine and imprisonment. Upon*
 27 *a second conviction, the punishment shall be a fine not to exceed*
 28 *five thousand dollars (\$5,000) or imprisonment in the county jail*
 29 *not to exceed 90 days, or both that fine and imprisonment. Upon*
 30 *a third or subsequent conviction, the punishment shall be a fine*
 31 *not to exceed ten thousand dollars (\$10,000) or imprisonment in*
 32 *the county jail not to exceed one year, or both that fine and*
 33 *imprisonment.*

34 SEC. 19. Section 264 of the Harbors and Navigation Code is
 35 amended to read:

36 264. ~~Every~~ (a) A captain or other person having charge of any
 37 steam vessel used for the conveyance of passengers, or of its boilers
 38 and engines, who, from ignorance or gross neglect, or for the
 39 purpose of excelling any other boat in speed, creates, or allows to
 40 be created, such an undue quantity of steam as to burst or break

1 the boiler, or any apparatus or machinery connected therewith with
2 the boiler, by which bursting or breaking human life is endangered,
3 is guilty of a felony.

4 (b) Notwithstanding any other provision of law, a person found
5 guilty of a felony violation of this section, upon first conviction
6 shall be subject to a fine not to exceed eleven thousand dollars
7 (\$11,000) or imprisonment not to exceed 18 months, or both that
8 fine and imprisonment. Upon a second or subsequent conviction,
9 the punishment shall be a fine not to exceed fifty thousand dollars
10 (\$50,000) or imprisonment not to exceed five years, or both that
11 fine and imprisonment.

12 SEC. 20. Section 300 of the Harbors and Navigation Code is
13 amended to read:

14 300. ~~Every~~ A person who ~~wilfully~~ willfully and maliciously
15 cuts, breaks, injures, sinks, or sets adrift ~~any~~ a vessel of less than
16 ten gross tons, ~~which~~ that is the property of another, is guilty of a
17 misdemeanor.

18 SEC. 21. Section 301 of the Harbors and Navigation Code is
19 amended to read:

20 301. ~~Every~~ A person who ~~wilfully~~ willfully and maliciously
21 cuts, breaks, or injures ~~any~~ a vessel of ten gross tons and upwards;
22 ~~which~~ that is the property of another, is guilty of a misdemeanor.

23 SEC. 22. Section 302 of the Harbors and Navigation Code is
24 amended to read:

25 302. ~~Every~~ A person who ~~wilfully~~ willfully and maliciously
26 sinks or sets adrift ~~any~~ a vessel of ten gross tons and upwards;
27 ~~which~~ that is the property of another, is guilty of a felony.

28 SEC. 23. Section 304 of the Harbors and Navigation Code is
29 amended to read:

30 304. ~~Every~~ A person in command or charge of ~~any~~ a vessel,
31 who, within this state, willfully wrecks, sinks, or otherwise injures
32 or destroys it or any of its cargo, or willfully permits the same to
33 be wrecked, sunk, or otherwise injured or destroyed, with intent
34 to prejudice or defraud ~~any~~ a person, is ~~punishable by~~
35 imprisonment in the state prison for two, three, or four years *guilty*
36 *of a felony*.

37 SEC. 24. Section 305 of the Harbors and Navigation Code is
38 amended to read:

39 305. ~~Every~~ A person, other than those embraced within the last
40 section one described in Section 304 who is guilty of any act

1 specified in that section, is ~~punishable by imprisonment in the state~~
 2 ~~prison guilty of a felony.~~

3 SEC. 25. Section 306 of the Harbors and Navigation Code is
 4 amended to read:

5 306. ~~Every~~A person who prepares, makes, or subscribes ~~any~~
 6 ~~a~~ false or fraudulent manifest, invoice, bill of lading, ship's register,
 7 or protest, with intent to defraud another, is ~~punishable by~~
 8 ~~imprisonment in the state prison guilty of a felony.~~

9 SEC. 26. Section 307 of the Harbors and Navigation Code is
 10 amended to read:

11 307. ~~Every~~A person who moors ~~any~~ a vessel to, or hangs on
 12 with a vessel to *a buoy or beacon, except a designated mooring*
 13 *buoy*, or who ~~willfully~~ *willfully* removes, damages, or destroys, ~~any~~
 14 ~~a~~ buoy or beacon, placed by competent authority in any navigable
 15 waters of this ~~State~~ *state*, is guilty of a misdemeanor.

16 SEC. 27. Section 308 of the Harbors and Navigation Code is
 17 amended to read:

18 308. ~~Every~~A person who moors ~~any~~ a vessel of any kind, to
 19 ~~any~~ a buoy or beacon, *except a designated mooring buoy*, placed
 20 in the waters of ~~California~~ *the state* by authority of the United
 21 States Coast Guard, or who in any manner hangs on to the same,
 22 with ~~any~~ a vessel, or who willfully removes, damages, or destroys
 23 any such buoy or beacon, or any part ~~thereof~~ *of the buoy or beacon*,
 24 or who cuts down, removes, damages, or destroys ~~any~~ a beacon
 25 ~~or beacons~~ erected on land in this state by that authority, is, for
 26 every offense, guilty of a misdemeanor, ~~punishable by a fine not~~
 27 ~~exceeding one thousand dollars (\$1,000), or by imprisonment not~~
 28 ~~exceeding six months.~~

29 SEC. 28. Section 309 is added to the Harbors and Navigation
 30 Code, to read:

31 309. A person found guilty of a misdemeanor violation as
 32 provided in this chapter, upon first conviction shall be subject to
 33 a fine not to exceed one thousand dollars (\$1,000) or imprisonment
 34 in the county jail not to exceed 30 days, or both that fine and
 35 imprisonment. Upon a second conviction, the punishment shall be
 36 a fine not to exceed five thousand dollars (\$5,000) or imprisonment
 37 in the county jail not to exceed 90 days, or both that fine and
 38 imprisonment. Upon a third or subsequent conviction, the
 39 punishment shall be a fine not to exceed ten thousand dollars

1 (\$10,000) or imprisonment in the county jail not to exceed one
2 year, or both that fine and imprisonment.

3 SEC. 29. Section 310 is added to the Harbors and Navigation
4 Code, to read:

5 310. Notwithstanding any other provision of law, a person
6 found guilty of a felony violation as provided in this chapter, upon
7 first conviction shall be subject to a fine not to exceed eleven
8 thousand dollars (\$11,000) or imprisonment not to exceed 18
9 months, or both that fine and imprisonment. Upon a second or
10 subsequent conviction, the punishment shall be a fine not to exceed
11 fifty thousand dollars (\$50,000) or imprisonment not to exceed
12 five years, or both that fine and imprisonment.

13 SEC. 30. Section 505.5 of the Harbors and Navigation Code
14 is amended to read:

15 505.5. (a) Whenever the lien upon any vessel is lost by reason
16 of the loss of possession through trick, fraud, or device, the
17 repossession of the vessel by the former lienholder claimant revives
18 the lien, but ~~any~~ a lien so revived is subordinate to any right, title,
19 or interest of ~~any~~ a person under ~~any~~ a sale, transfer, encumbrance,
20 lien, or other interest acquired or secured in good faith and for
21 value between the time of the loss of possession and the time of
22 repossession.

23 (b) It is a misdemeanor for ~~any~~ a person to obtain possession
24 of ~~any~~ a vessel or any part ~~thereof~~ of the vessel subject to a lien
25 pursuant to the provisions of this chapter by trick, fraud, or device.

26 (c) It is a misdemeanor for ~~any~~ a person claiming a lien on a
27 vessel to knowingly violate ~~any provisions of~~ this article.

28 (d) *A person found guilty of a misdemeanor violation of*
29 *subdivision (b) or (c) of this section, upon first conviction shall be*
30 *subject to a fine not to exceed one thousand dollars (\$1,000) or*
31 *imprisonment in the county jail not to exceed 30 days, or both that*
32 *fine and imprisonment. Upon a second conviction, the punishment*
33 *shall be a fine not to exceed five thousand dollars (\$5,000) or*
34 *imprisonment in the county jail not to exceed 90 days, or both that*
35 *fine and imprisonment. Upon a third or subsequent conviction,*
36 *the punishment shall be a fine not to exceed ten thousand dollars*
37 *(\$10,000) or imprisonment in the county jail not to exceed one*
38 *year, or both that fine and imprisonment.*

39 SEC. 31. Section 571 of the Harbors and Navigation Code is
40 amended to read:

1 571. ~~Any~~(a) A person who takes away any goods from ~~any~~ a
 2 stranded vessel, or any goods cast by the sea upon the land, or
 3 found in ~~any~~ a bay or creek, or who knowingly has in his *or her*
 4 possession any goods so taken or found, and does not deliver them
 5 to the sheriff of the county where they were found, or notify him
 6 *or her* of his *or her* readiness to do so within ~~thirty~~ 30 days after
 7 they have been taken by him *or her* or have come into his *or her*
 8 possession, is guilty of a misdemeanor.

9 (b) A person found guilty of a misdemeanor violation of this
 10 section, upon first conviction shall be subject to a fine not to exceed
 11 one thousand dollars (\$1,000) or imprisonment in the county jail
 12 not to exceed 30 days, or both that fine and imprisonment. Upon
 13 a second conviction, the punishment shall be a fine not to exceed
 14 five thousand dollars (\$5,000) or imprisonment in the county jail
 15 not to exceed 90 days, or both that fine and imprisonment. Upon
 16 a third or subsequent conviction, the punishment shall be a fine
 17 not to exceed ten thousand dollars (\$10,000) or imprisonment in
 18 the county jail not to exceed one year, or both that fine and
 19 imprisonment.

20 SEC. 32. Section 652 of the Harbors and Navigation Code is
 21 amended to read:

22 652. (a) The department may issue regulations *to do all of the*
 23 *following*:

24 (1) ~~Establishing~~ *Establish* minimum safety standards for boats
 25 and associated equipment.

26 (2) ~~Requiring~~ *Require* the installation, carrying, or using of
 27 associated equipment.

28 (3) ~~Prohibiting~~ *Prohibit* the installation, carrying, or using of
 29 associated equipment ~~which~~ *that* does not conform with safety
 30 standards established pursuant to this chapter.

31 (b) The regulations shall conform with the federal navigation
 32 laws or with the navigation rules promulgated by the United States
 33 Coast Guard, or any successor thereto.

34 (c) ~~No~~—A person or public agency shall *not* use or give
 35 permission for the use of a vessel ~~which~~ *that* does not carry the
 36 equipment or meet the standards established pursuant to this
 37 chapter.

38 (d) A peace officer or harbor police officer authorized to enforce
 39 this chapter may order the termination of the operation of a vessel
 40 ~~which~~ *that* is found to be unsafe for operation pursuant to Section

1 6550.5 of Title 14 of the California Code of Regulations. A
2 violation of an order under this subdivision is a misdemeanor.

3 *(e) A person found guilty of a misdemeanor violation of*
4 *subdivision (d), or of any regulation adopted by the department*
5 *pursuant to this section, upon first conviction shall be subject to*
6 *a fine not to exceed one thousand dollars (\$1,000) or imprisonment*
7 *in the county jail not to exceed 30 days, or both that fine and*
8 *imprisonment. Upon a second conviction, the punishment shall be*
9 *a fine not to exceed five thousand dollars (\$5,000) or imprisonment*
10 *in the county jail not to exceed 90 days, or both that fine and*
11 *imprisonment. Upon a third or subsequent conviction, the*
12 *punishment shall be a fine not to exceed ten thousand dollars*
13 *(\$10,000) or imprisonment in the county jail not to exceed one*
14 *year, or both that fine and imprisonment.*

15 SEC. 33. Section 654.5 of the Harbors and Navigation Code
16 is amended to read:

17 654.5. ~~Any~~A person who maliciously throws, hurls, or projects
18 ~~any~~ an object by manual, mechanical, or other means at a vessel
19 or ~~any~~ an occupant of a vessel on any of the waters within or
20 bordering on this state, which act does not constitute a violation
21 of either Section 242 or 594 of the Penal Code, is guilty of a
22 misdemeanor, and upon first conviction the punishment shall be
23 a fine not to exceed ~~one hundred dollars (\$100) or imprisonment~~
24 ~~in the county jail not to exceed 30 days, or both that fine and~~
25 ~~imprisonment. Upon a second or subsequent conviction, the~~
26 ~~punishment shall be a fine of not to exceed two hundred fifty~~
27 ~~dollars (\$250) or imprisonment in the county jail not to exceed 60~~
28 ~~days, or both that fine and imprisonment. one thousand dollars~~
29 ~~(\$1,000) or imprisonment in the county jail not to exceed 30 days,~~
30 ~~or both that fine and imprisonment. Upon a second conviction, the~~
31 ~~punishment shall be a fine not to exceed five thousand dollars~~
32 ~~(\$5,000) or imprisonment in the county jail not to exceed 90 days,~~
33 ~~or both that fine and imprisonment. Upon a third or subsequent~~
34 ~~conviction, the punishment shall be a fine not to exceed ten~~
35 ~~thousand dollars (\$10,000) or imprisonment in the county jail not~~
36 ~~to exceed one year, or both that fine and imprisonment.~~

37 SEC. 34. Section 658.3 of the Harbors and Navigation Code
38 is amended to read:

39 658.3. (a) ~~No~~A person shall *not* operate a motorboat, sailboat,
40 or vessel that is 26 feet or less in length, unless every person on

1 board who is ~~at least~~ *under 13* years of age ~~or less~~ is wearing a type I,
2 II, III, or V Coast Guard-approved personal flotation device while
3 that motorboat, sailboat, or vessel is underway.

4 (b) Subdivision (a) does not apply to a person operating a
5 sailboat on which a person who is ~~at least~~ *under 13* years of age ~~or less~~
6 is restrained by a harness tethered to the vessel, or to a person
7 operating a vessel on which a person who is ~~at least~~ *under 13* years of
8 age ~~or less~~ is in an enclosed cabin.

9 (c) ~~Any~~ A person on board a personal watercraft or ~~any~~ a person
10 being towed behind a vessel on water skis, an aquaplane, or similar
11 device, except for ~~any~~ *an* underwater maneuvering device intended
12 for use by a submerged swimmer, shall wear a type I, II, III, or V
13 Coast Guard-approved personal flotation device. An underwater
14 maneuvering device is ~~any~~ a towed or self-powered apparatus that
15 a person can pilot through diving, turning, and surfacing maneuvers
16 that is designed for underwater use.

17 (1) This subdivision does not apply to a person aboard a personal
18 watercraft or a person being towed behind a vessel on water skis,
19 if that person is a performer engaged in a professional exhibition,
20 or preparing to participate or participating in an official regatta,
21 marine parade, tournament, or exhibition.

22 (2) In lieu of wearing a Coast Guard-approved personal flotation
23 device of a type described in this subdivision, ~~any~~ a person engaged
24 in slalom skiing on a marked course or ~~any~~ a person engaged in
25 barefoot, jump, or trick waterskiing may elect to wear a wetsuit
26 designed for the activity and labeled by the manufacturer as a water
27 ski wetsuit. A Coast Guard-approved personal flotation device of
28 a type described in this subdivision shall be carried in the tow
29 vessel for each skier electing to wear a water ski wetsuit pursuant
30 to this paragraph.

31 (d) The requirements set forth in subdivisions (a) and (c) do not
32 apply to a person operating a motorboat, sailboat, or vessel if the
33 operator is reacting to an emergency rescue situation.

34 (e) The following definitions govern the construction of this
35 section:

36 (1) “Enclosed cabin” means a space on board a vessel that is
37 surrounded by bulkheads and covered by a roof.

38 (2) “Operate a motorboat, sailboat, or vessel” means to be in
39 control or in charge of a motorboat, sailboat, or vessel while it is
40 underway.

1 (3) “Underway” means all times except when the motorboat,
2 sailboat, or vessel is anchored, moored, or aground.

3 (f) A violation of this section is an infraction punishable as
4 provided in subdivision (a) of Section 668.

5 SEC. 35. Section 660.2 of the Harbors and Navigation Code
6 is repealed.

7 ~~660.2.—(a) Upon request of the Director of Fish and Game, or
8 his or her designee, the department shall restrict or prohibit, based
9 on the request, recreational vessel activity in Agua Hedionda
10 Lagoon in San Diego County if that vessel activity would hinder
11 or jeopardize the efforts of the Department of Fish and Game to
12 control or eradicate *Caulerpa taxifolia*. Notice of the restriction or
13 prohibition shall be posted conspicuously, and, at a minimum, in
14 areas where boats are launched into the waterway where the
15 restriction or prohibition is in effect. The operator of a vessel who
16 violates any restrictions or prohibition pursuant to this subdivision
17 is subject to a fine of not more than two hundred fifty dollars
18 (\$250).~~

19 ~~(b) (1) The Director of Fish and Game, or his or her designee,
20 shall inform the Department of Boating and Waterways regarding
21 the date on which *Caulerpa taxifolia* has been eradicated from
22 Agua Hedionda Lagoon.~~

23 ~~(2) The Director of Fish and Game, or his or her designee, shall
24 calculate the repeal date of this section by adding one year to the
25 date provided to the Department of Boating and Waterways under
26 paragraph (1), and shall notify the Secretary of State in writing of
27 that repeal date, stating that the notification is being provided under
28 this paragraph.~~

29 ~~(c) This section shall remain in effect only until the repeal date
30 calculated under paragraph (2) of subdivision (b), and as of that
31 date is repealed, unless a later enacted statute that is enacted before
32 that date deletes or extends that date.~~

33 SEC. 36. Section 668.1 of the Harbors and Navigation Code
34 is amended to read:

35 668.1. (a) ~~Any~~A person convicted of a violation of subdivision
36 (a), (b), (c), (d), (e), or (f) of Section 655, or of Section 655.2,
37 655.6, 655.7, 658, or 658.5, *or of subdivision (a) or (b) of Section*
38 *681*, or of Section 191.5 or subdivision (a) of Section 192.5 of the
39 Penal Code, or of the federal rules of the road and pilot rules, not
40 including equipment requirements, incorporated by reference in

1 Section 6600.1 of Title 14 of the California Code of Regulations,
2 or found by a court to have performed any of the acts described
3 in Section 6697 of Title 14 of the California Code of Regulations,
4 pertaining to a mechanically propelled vessel but not to
5 manipulating any water skis, an aquaplane, or similar device, when
6 the conviction resulted from the operation of a vessel, shall be
7 ordered by the court to complete and pass a boating safety course
8 approved by the department pursuant to Section 668.3.

9 (b) ~~Any~~A person who has been ordered by the court to complete
10 and pass a boating safety course pursuant to this section shall
11 submit to the court proof of completion and passage of the course
12 within seven months of the time of his or her conviction. The proof
13 shall be in a form that has been approved by the department and
14 that provides for the ability to submit the form to the court through
15 the United States Postal Service. If the person who has been
16 required to complete and pass a boating safety course is under 18
17 years of age, the court may require that the person obtain parental
18 consent to enroll in the course. If the person does not complete
19 and pass the boating safety course, the court may extend the period
20 for completion or impose another penalty as prescribed by statute.

21 (c) The department shall adopt regulations to carry out this
22 section, including approval of boating safety education courses,
23 as specified in Section 668.3, prescribing the forms for proof of
24 completion and passage, approval of testing to indicate appropriate
25 mastery of the course subject matter, and setting forth any fees to
26 be charged to course participants, which fees shall not exceed the
27 expenses associated with providing the course.

28 SEC. 37. Section 738 of the Harbors and Navigation Code is
29 amended to read:

30 738. (a) Each violation of ~~any~~ a section or subdivision of ~~any~~
31 a section of this article, excepting Section 709, is a misdemeanor
32 punishable by a fine not exceeding one thousand dollars (\$1,000),
33 provided that a violation committed willfully and with knowledge
34 of the provisions of the violated section or subdivision is punishable
35 by a fine not exceeding one thousand dollars (\$1,000), or by
36 imprisonment in the county jail not exceeding one year, or by both
37 ~~such~~ that fine and ~~such~~ imprisonment.

38 (b) Each violation of Section 709 is a misdemeanor punishable
39 by a fine not exceeding one thousand dollars (\$1,000), or by

1 imprisonment in the county jail not exceeding one year, or by both
2 ~~such that~~ fine and ~~such~~ imprisonment.

3 (c) *Upon a second conviction for a misdemeanor violation of*
4 *subdivision (a) or (b), the punishment shall be a fine not to exceed*
5 *five thousand dollars (\$5,000) or imprisonment in the county jail*
6 *not to exceed 90 days, or both that fine and imprisonment. Upon*
7 *a third or subsequent conviction, the punishment shall be a fine*
8 *not to exceed ten thousand dollars (\$10,000) or imprisonment in*
9 *the county jail not to exceed one year, or both that fine and*
10 *imprisonment.*

11 SEC. 38. Section 780 of the Harbors and Navigation Code is
12 amended to read:

13 780. (a) ~~No~~A person shall *not* disconnect, bypass, or operate
14 a marine sanitation device so as to discharge sewage into the waters
15 of this state, unless the particular discharge is expressly authorized
16 or permitted pursuant to state or federal law or regulations. A
17 violation of this subdivision is a misdemeanor.

18 (b) The following prohibitions apply in no-discharge areas:

19 (1) ~~No~~A person shall *not* disconnect, bypass, or operate a marine
20 sanitation device so as to potentially discharge sewage.

21 (2) ~~No~~A person shall *not* occupy or operate a vessel in which
22 a marine sanitation device is installed unless the marine sanitation
23 device is properly secured.

24 The first violation of this subdivision is an infraction *punishable*
25 *by a fine of up to five hundred dollars (\$500)*. A second or
26 subsequent violation of this subdivision by any one person is a
27 misdemeanor.

28 (c) *A person found guilty of a misdemeanor violation of*
29 *subdivision (a) or (b), upon first conviction shall be subject to a*
30 *fine not to exceed one thousand dollars (\$1,000) or imprisonment*
31 *in the county jail not to exceed 30 days, or both that fine and*
32 *imprisonment. Upon a second conviction, the punishment shall be*
33 *a fine not to exceed five thousand dollars (\$5,000) or imprisonment*
34 *in the county jail not to exceed 90 days, or both that fine and*
35 *imprisonment. Upon a third or subsequent conviction, the*
36 *punishment shall be a fine not to exceed ten thousand dollars*
37 *(\$10,000) or imprisonment in the county jail not to exceed one*
38 *year, or both that fine and imprisonment.*

O